



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Consolidated Bell, Inc.

**File:** B-237033

**Date:** January 23, 1990

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### DIGEST

Where an invitation for bids required descriptive literature sufficient to determine whether the offered item conformed to the technical specifications and bidders were advised that failure to do so would require rejection of their bids, the procuring agency properly rejected as nonresponsive a bid whose descriptive literature referencing the item failed to establish that the item would meet the listed solicitation requirements.

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### DECISION

Consolidated Bell, Inc., protests the rejection of its apparent low bid as nonresponsive and the award of a contract to Nixdorf Computer Corporation under invitation for bids (IFB) No. APHIS-9-024, issued by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, for laser printers.

We deny the protest.

Section C of the IFB listed 19 "mandatory specifications" that an offered item was required to meet, and stated that: "The offeror must respond in writing indicating how the offered product meets each mandatory specification." The IFB also contained the standard descriptive literature clause which cautioned bidders that the failure of descriptive literature to show that the government's requirements would be met would require rejection of the bid.

Forty-eight bids were received by bid opening. Bell submitted two bids in one envelope. One bid was for a Fujitsu RX7100 printer at \$1,290 each and the other was for a Hewlett Packard LaserJet Series II printer at \$2,190 each. The envelope also contained five loose sheets of descriptive literature; one sheet referenced the RX7100 and the other four sheets referenced the LaserJet Series II.

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Bell's bid for the Fujitsu RX7100 was the lowest. A technical evaluation team reviewed the descriptive literature sheet referencing the Fujitsu RX7100 and determined it did not address or indicate compliance with 12 of the 19 listed requirements. By letter dated September 18, 1989, Agriculture notified Bell of the award to Nixdorf Computer for the Hewlett Packard Laser Jet Series II printer at a unit price of \$1,680, and advised Bell of the 12 reasons its bid for the Fujitsu RX7100 printer was considered nonresponsive. Bell protested to our Office on September 21.

Bell contends that it intended that all five sheets of descriptive literature be used to prove the Fujitsu RX7100 met IFB requirements. In this regard, Bell notes that the sheet concerning the Fujitsu RX7100 states under the heading "EMULATION" "Resident: HP LaserJet Plus". According to Bell, because the Fujitsu RX7100 emulates a Hewlett Packard LaserJet printer, all five sheets of descriptive literature were interchangeable between the two bids, and the agency should have considered Hewlett Packard literature in evaluating whether the Fujitsu printer conformed to the IFB requirements. Bell argues that its bid would have been considered responsive if the agency had considered the Hewlett Packard literature in evaluating its bid.

Where descriptive literature is required to establish the bid's conformance with the specifications, and bidders are so cautioned, the bid must be rejected as nonresponsive if the literature submitted fails to show clearly that the offered product conforms to the specifications. JoeQuin Mfg. Corp., B-228515, Jan. 11, 1988, 88-1 CPD ¶ 15.

As stated above, Agriculture found Bell's bid for the Fujitsu printer to be nonresponsive because it failed to show compliance with 12 of 19 specifications. For example, although the IFB requires the contractor to provide (1) parallel cable at least six feet in length, with a male DB-25 connector at one end and a Centronics type connector at the other end, and (2) user controls for power on/off, on-line/off-line, advance to top of form, font selection, and interface selection located on a front panel, the Fujitsu RX7100 preprinted sheet submitted by Bell does not mention either cable or user controls.

Moreover, it was entirely reasonable for Agriculture not to use the descriptive literature for a Hewlett Packard printer to evaluate a printer of another manufacturer, especially when the Hewlett Packard literature was included with a bid offering a Hewlett Packard printer. Although the IFB specifically instructed bidders to indicate how the

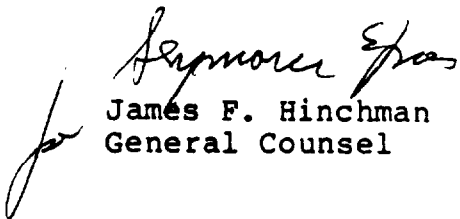
offered product met each mandatory specification, Bell did not annotate the literature or indicate anywhere in its bid that the Hewlett Packard printer literature was submitted to indicate how the Fujitsu printer complied with the mandatory specifications. The statement in the preprinted Fujitsu literature about emulation of the HP LaserJet Plus does not clearly delineate the extent to which the Fujitsu printer emulates the full functionality of the HP LaserJet Series II printer, or otherwise comply with the express IFB requirement to indicate how the offered product met each mandatory specification.

Moreover, according to the agency, information on the Fujitsu RX7100 printer was not readily available to it, since it had never been supplied under a prior solicitation or contract. To the contrary, the agency has never purchased Fujitsu equipment and is totally unfamiliar with its functions and capabilities, such that it was completely dependent on Bell's submitted information, which was totally inadequate.

Bell's post-opening representation to the agency concerning the features of the Fujitsu printer does not overcome its failure to submit with its bid sufficient information clearly showing that the printer conformed to the specifications. Under the sealed bidding process, a bidder must demonstrate its responsiveness at the time of bid opening. AZTEK, Inc., B-229897, Mar. 25, 1988, 88-1 CPD ¶ 308.

Consequently, the agency's conclusion that Bell's bid failed to show that the Fujitsu printer it offered conformed to IFB specifications was appropriate, and Bell's bid therefore was properly rejected as nonresponsive. See IRT Corp., B-233134, Feb. 21, 1989, 89-1 CPD ¶ 216.

The protest is denied.

  
James F. Hinchman  
General Counsel